

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PHILIP MORRIS, JR.,

Plaintiff,

No. CIV S-00-2794 GEB GGH P

vs.

ANTHONY NEWLAND, et al.,

Defendants.

ORDER

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. Defendants, on September 21, 2007, filed a timely motion for summary judgment in accordance with the scheduling order, filed on April 25, 2007. By Order, filed on September 19, 2007, plaintiff had been granted a thirty-day extension of time to file his motion for summary judgment. Instead, on September 21, 2007, plaintiff filed a pretrial statement, which references a trial date for a trial which has not yet been scheduled, the scheduling order having explicitly stated that “pretrial conference and trial dates will be set, as appropriate, following adjudication of any dispositive motion, if filed.”

Plaintiff is informed herein that he has thirty days from the filed date of this order to file an opposition to defendant’s pending motion for summary judgment; in addition, if he wishes to file a cross-motion for summary judgment, he must do so at that time. Should this

1 matter proceed to trial following adjudication of defendants' summary judgment motion (and any
2 cross-motion by plaintiff), plaintiff may determine at that time if he wishes to rely on the
3 prematurely filed pretrial statement referenced herein.

4 IT IS SO ORDERED.

5 DATED: 9/28/07

/s/ Gregory G. Hollows

6 GREGORY G. HOLLOWS
7 UNITED STATES MAGISTRATE JUDGE

8 GGH:009
9 morr2794.brf